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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,078	04/20/2001	Hai Lin	29876/37280	2715

7590 12/06/2005

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT PAPER NUMBER

3635

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,078

Applicant(s)

ZHANG ET AL.

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 27,30-34,41 and 44-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,600,336 to WALLER, Jr. In reference to claims 27 and 41, WALLER, Jr. discloses the use of a flexible flooring (10) including a first top layer (11) consisting of a plurality of strips (12) having a grain extending in a longitudinal direction, and a second bottom layer (15) consisting of a plurality of strips (16); wherein, the second bottom plurality of strips (16) are closely spaced by a gaps (not labeled), column 3, lines 17-18, such that the second plurality of strips (16) are not perpendicular to the first plurality of strips (12). WALLER, Jr. discloses the basic claimed system except for the second layer specifically having a grain that is transverse to the grain of the first layer. It would have been obvious to one having ordinary skill in the art at the time the invention was made that grain of the panel would depend upon how the plank was cut. Hence, the selection of how a plank is to be cut suitable for the use intended as an obvious matter of design choice. For instance, if a firmer flooring system is required perhaps the grain of the two layers would be disposed transversely to one another; whereas, if the firmness of the system is not a matter, they two layer would perhaps have parallel grains. In reference to claims 30 and 44, the planks (12,16) are wood. Regarding claims 31-33 and 45-46, the amount of gap spaced desired 14, the second bottom layer (14) also includes tongues (32) and grooves (formed by gaps G)

Art Unit: 3635

for attaching adjacent planks (10). Again, the size of the gap is suitable for the use intended as an obvious matter of design choice. For instance, if a flexible floor is required larger gap widths would be required; whereas, less flexible flooring system could accommodate gaps having smaller widths. . In reference to claims 36 and 37, although WALLER, Jr. is silent in this regard, wood flooring is old and very well known in the art for having an acrylic layer of some sort disposed thereon such that the flooring is pre-finished. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the flooring of WALLER, Jr. with an acrylic layer. Regarding claims 34 and 35, the method of forming the strip is germane to the issue of patentability of the flexible flooring member itself. Thus, the steps of rough cutting and machining have not been given considerable weight.

Claims 28,29,42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,600,336 to WALLER, Jr. in view of US Patent #5,822,944 to PENLAND, Sr. Regarding claims 28 and 42, WALLER, Jr. discloses the basic claimed system except for the inclusion of a tongue and groove along the edges. PENLAND, Sr. teaches that a bottom layer (26) is known in the art to have a tongue (32) and a groove (34). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was known to provide the system of WALLER, Jr. with the tongue and grooves of PENLAND, Sr. in order to more securely interconnect adjacent flooring systems. In reference to claims 29 and 43, the tongue (32) and grooves (34) are along the length of the planks.

Claims 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,600,336 to WALLER, Jr. in view of US Patent #5,822,944 to PENLAND, Sr. WALLER, Jr. discloses the use of a flexible flooring (10) including a first top layer (11) consisting of a plurality of strips (12) having a grain extending in a longitudinal direction, and a second bottom layer (15) consisting of a plurality of strips (16); wherein, the second bottom plurality of strips (16) are closely spaced by a gaps (not labeled), column 3, lines 17-18, such that the second plurality of strips (16) are not perpendicular to the first plurality of strips (12). WALLER, Jr. discloses the basic claimed system except for the second layer specifically having a grain that is transverse to the grain of the first layer. It would have been obvious to one having ordinary skill in the art at the time the invention was made that grain of the panel would depend upon how the plank was cut. Hence, the selection of how a plank is to be cut suitable for the use intended as an obvious matter of design choice. For instance, if a firmer flooring system is required perhaps the grain of the two layers would be disposed transversely to one another; whereas, if the firmness of the system is not a matter, they two layer would perhaps have parallel grains. WALLER, Jr. discloses the basic claimed system except for the inclusion of a tongue and groove along the edges. PENLAND, Sr. teaches that a bottom layer (26) is known in the art to have a tongue (32) and a groove (34). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was known to provide the system of WALLER, Jr. with the tongue and grooves of PENLAND, Sr. in order to more securely interconnect adjacent flooring systems. In reference to claim 39, the tongue (32) and grooves (34) are along the length of the

Art Unit: 3635

planks. Regarding claim 40, the method of forming the strip is germane to the issue of patentability of the flexible flooring member itself. Thus, the steps of machining has not been given considerable weight.

Response to Arguments


Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6845. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yvonne M. Horton
Art Unit 3635 10/19/05